

P. U. EASEMENT, LAND USE
AND RIGHT-OF-FIRST REFUSAL AGREEMENT

This 4 day of March, 2003, P. U. Ranch, Inc., a Montana Corporation of P. O. Box 212, Musselshell, Mt. 59059 ("P. U.") and Bull Mountain Land Company, LLC., a Delaware limited liability company, of 3203 3rd Avenue North #305, Billings, MT 59101 ("Bull") is as follows:

WHEREAS, P. U. owns fee simple title to that property described upon Schedule A-4 taken from Title Commitment No. 23-991, consisting of 9,527 acres ("P. U. Land"), attached hereto as exhibit "A";

WHEREAS, P. U. only owns limited mineral interests underlying the P. U. Land;

WHEREAS, Bull has fee simple title to: Section 1, T6N, R27E M. P. M.; Sections 5, 7, 9 and 31 T6N, R28E M. P. M.; and Sections 17 and 21, T7N, R28E M. P. M., containing 4,480 acres ± (Bull Land);

WHEREAS, Bull owns or may obtain all of the minerals under the Bull Land;

WHEREAS, P. U. desires to obtain long term transferrable grazing rights upon the Bull Land;

WHEREAS, P. U. desires to obtain long term transferrable hunting rights upon the Bull Land;

WHEREAS, Bull desire to obtain long term and transferrable access rights to and from the Bull Land over, across and under the P. U. Land by means of pipes, roads and conveyor systems for the purpose of logging and removing trees from the Bull Land and mining, exploring and extracting minerals from the Bull Land, including but not limited to coal (including anthracite, bituminous, and sub bituminous coal, lignite, their respective constituent products, and other materials or minerals intermingled therewith or associated therewith in any bed, seam or vein of anthracite, bituminous or sub bituminous coal or Lignite), and an easement over, across and under the P. U. Land for the purpose of performing environmental activities as required by state and federal authorities in conjunction with its mining, exploring, and extraction of minerals any where within the larger area of the Bull Mountain Coal Fields;

WHEREAS, BULL desires to obtain a long term and transferable right-of-first refusal to purchase any portion of the P. U. Land when a bonafide written offer therefore is received by P. U.; and

WHEREAS, both parties are willing to accommodate each others desires for the considerations and agreements hereafter expressed;

WHEREFORE, the parties agree as follows:

1. Subject to the conditions hereafter specified, for a period of ten years from the date hereof and at no charge, Bull hereby grants to P. U. the right to graze livestock upon the Bull Land.

2. Subject to the conditions hereafter specified, for a period of ten years from the date hereof and at no charge, Bull hereby grants to P. U. the exclusive hunting rights upon the Bull Land.

3. Subject to the conditions hereafter specified, P. U. grants Bull a ten year easement over, across and under the P. U. Land for the purpose of performing Environmental Activities defined as:

every type of environmental reconnaissance, monitoring, surveying, measurements, drilling, pumping, sampling, testing or other environmental work that may be required by any regulatory agency or that may be deemed necessary or desirable by Bull, its successors and assigns whether for the purpose of obtaining any permits or regulatory agency approvals, complying with permits for any regulatory agency, or gathering data for feasibility studies or for any other purpose,

in conjunction with its Mineral Development and Extraction Operations anywhere within the larger area of the Bull Mountain Coal Fields, and a ten year access easement over, across and under the P. U. Land to and from the Bull Land for the purpose removing trees from the Bull Land and removal of Minerals defined to include but not limited to:

coal (including anthracite, bituminous, and sub bituminous coal, lignite, their respective constituent products, and other materials or minerals intermingled therewith or associated therewith in any bed, seam or vein of anthracite, bituminous or sub bituminous coal or Lignite) in, under or upon the Bull Lands.

by means of pipes, roads railroad spurs, and conveyor belt systems over, across and under the P. U. Land. In conjunction therewith the easement shall include easements over across and under the P. U. Land for any utilities needed in conjunction with the above activities including but not limited to electrical transmission lines, electrical substations, gas lines, telephone lines, or other utility lines, pipes and conveyancing systems.

4. In consideration for the ten year easement granted under paragraph 3., Bull agrees to pay P. U. 10 cents per ton for any coal mined from the Bull Land and which is transported over and across the P. U. Land. It is understood that no more than 10 cents per ton will be due and owing even if it is necessary for Bull to cross more than one section or parcel of P. U. All tons shall be weighed at a certified scales, and payment shall be due and owing within 30 days following each calendar months transport of coal across P. U. Land. This right shall not be severable from the P. U. Land over which the coal is transported.

5. Each party shall hold the other harmless from and indemnify the other against any and

all claims, liability, damages, losses, lawsuits, attorney's fees and costs caused by the action or inaction of their respective agents, officers, directors, employees, contractors, lessees, licensees, invitees or guests, which shall occur on either the Bull Land or the P. U. Land. In the event a claim, liability, damage, loss, lawsuit, attorney's fees occur or are caused by the action or inaction of both parties respective agents, officers, directors, employees, contractors, lessees, licensees, invitees or guests, this paragraph shall not govern the rights between the parties. In this later case the common law shall govern.

6. Subject to the conditions hereafter specified, P. U. grants Bull a right-of-first refusal to purchase any portions of the P. U. Land upon which P. U. receives of a bonafide written offer therefore within 10 years from the date hereof. Upon P. U.'s receipt of any such bonafide written offer, P. U. shall serve the written offer upon Bull as provided for hereafter. Bull shall have 30 days from the date of service of such offer to serve P. U. with a written and unconditional agreement to perform under such offer as tendered. Thereupon, Bull shall be bound to purchase and P. U. shall be bound to sell as provided for in the bonafide offer. Failure of Bull to exercise its right-of-first refusal on any particular parcel shall not waive its rights to exercise it as to future parcels. As an accommodation to the right-of-first refusal grant, P. U. agrees that it will not create, or offer, option or contract to sell parcels of its Land in acreages of 160 acres or less.

7. P. U. shall conduct its grazing activities upon Bull Land in a reasonable manner so as to not cause the Bull Land to be over grazed, and in a way which will not unreasonably interfere with Bull's rights to explore for, mine, extract, transport, convey, and pipe the minerals, conduct environmental activities, and remove trees from or upon the Bull Land.

8. P. U. shall conduct its hunting activities upon Bull Land in a reasonable manner, and in a way which will not unreasonably interfere with Bull's right to explore for, extract, mine, transport, convey, pipe the minerals, conduct environmental activities, and remove trees from or upon the Bull Land.

9. In the exercise of the rights granted herein or retained by both parties, both parties shall, where applicable, comply with all state and local laws and regulations concerning management and suppression of noxious weeds, and where such laws and regulations are inapplicable take all reasonable steps to manage and suppress noxious weeds on the land under their control.

10. Each party shall notify the other as soon as reasonably possible as to any forest fires which may be observed on or near the others Land, and shall participate in the suppression thereof in a reasonable manner.

11. The rights granted herein shall be freely assignable by both parties in whole or part, as long as the buyer/assignee unqualifiedly assumes in writing the duties required herein for events and/or activities which will occur following the recording of the assignment and assumption agreement with the Musselshell County Clerk and Recorder. Failure to record and otherwise comply with the

requirements of the prior sentence shall cause the seller/assignor to continue to be fully responsible hereunder. Upon recording said assignment and assumption agreement, the seller/assignor will be relieved of any responsibility for events or activities, which occur following the recording of the assignment and assumption as to the land conveyed, but the seller/assignor shall continue to be liable for events and/or activities occurring prior to recording. Notwithstanding the foregoing, the grazing rights and hunting rights being created herein may only be assigned, sold or transferred, if the buyer/assignee has acquired or is purchasing all of P. U. Land. Failure to exercise the right of first-of-first refusal as to a particular parcel of P. U. Land will not constitute a waiver by Bull of any its access rights or other rights with respect thereto. The restriction against the assignment, sale or transfer of the grazing rights and hunting will not prohibit P. U. from leasing such rights during its ownership thereof.

12. In the event one of the parties hereto breaches this Agreement, the non breaching party may serve a written notice upon the other, specifying the default and giving 30 days from the date of service for the other to cure the default. In the event the other fails to cure the default within 30 days from the service of the notice, or where the default cannot be reasonably cured within 30 days, the other fails to commence curing the default within 30 days of the date of service of the notice and fails to diligently pursue the same to completion, the party serving the notice may terminate only those rights granted hereunder from which the default arose. Thereafter, the breaching party may continue to enjoy the rights unaffected by the default, and the non breaching party shall be entitled to continue to enjoy its rights granted hereunder.

13. If any controversy or claim arising out of this Agreement cannot be settled by the parties, either party may require arbitration of the dispute pursuant to the provisions of the Montana Uniform Arbitration Act in effect at the time of the execution of this Agreement, by giving written notice of his election to arbitrate. The complaining party shall select one arbitrator and the remaining party shall select a second arbitrator. The two arbitrators shall jointly select a third arbitrator. All arbitrators must possess expertise on the issues submitted to arbitration. The arbitrators shall make an award within 30 days of completion of the hearing conducted by them.

14. It is understood that by execution of and negotiation for this Agreement, Bull does not waive and P. U. does not admit to any access rights which Bull may other wise have under the common law, equity, or statute over, across and under the P. U. Land for the benefit of the Bull Land, and that this Agreement and the negotiations therefore may not be used in a court of law for the purpose of establishing such access rights or proving that such access right do not exist.

15. Bull or its assigns may extend all of the rights, and easements granted to it hereunder for four (4) additional ten year terms by serving a written notice to extend upon P. U. and recording the same with the Musselshell County Clerk and Recorder on or before the expiration of the term preceding the additional term for which the notice is given. It is understood that all of the easements and rights granted to P. U. by Bull herein shall remain in full force and effect during the additional terms. It is further understood as to both parties that the duties and responsibilities set out herein shall remain

STATE OF Arizona)

ss.

COUNTY OF Maricopa)

This instrument was acknowledged before me on the 10 day of March, 2003 by Larry D. Klinger of P. U. Ranch, Inc.

Sign: Kim Combs

Print name: Kim Combs

Residing at: Arizona

Notary Public for the State of Arizona

My Commission Expires: 9/12/2006

(SEAL)

